

**ANDOVER BOARD OF HEALTH**  
**Minutes**  
**December 10, 2012, 6:00 P.M.**  
**CD&P First Floor Conference Room**  
**36 Bartlet Street**

The Board of Health Meeting was called to order at 6:05 p.m. by Dr. Miller. Present were Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Martin, Chairman, arrived at the meeting at 6:08 pm.

**I. Approval of Minutes**

- **November 19, 2012**

*Motion by Ms. Martin, seconded by Dr. Miller to approve the Minutes of the November 19, 2012 Board of Health Meeting with the following correction:*

- *On page 3 under • **Set 2013 Meeting Calendar**, second paragraph, change “Dr. Miller stated that he could get a list of Doctors...” to “Dr. Miller stated that he would try to get a list of Doctors...”.*

*Unanimous approval.*

**II. Appointments & Hearings**

- **6:00 p.m. – Staff Member Visit – Ron Beauregard, Tobacco Control Director** - Mr. Beauregard informed the Board that last year the Tobacco Control Regulations were completely revamped in Middleton, Tewksbury and Haverhill. They put together a model regulation as a boiler plate to use as a starting point. Mr. Beauregard provided the Board with some updating he was considering, but the booklet was inadvertently left out of the packet.<sup>1</sup> One provision concerns prohibiting the sale of certain items to minors such as vapor cigarettes that have a cartridge w/ nicotine that creates a vapor, but there is no tobacco product in it. Another change could be calculating 2<sup>nd</sup> or 3<sup>rd</sup> subsequent offences and have a tolling period – right now it is within one year and is considered a second offence. Another provision would be to prohibit the purchase of free tobacco by use of coupons. There are also large machines that you can pour tobacco into, and it rolls a carton of cigarettes in under 10 minutes with a lower price. Now the Federal Government says they have to be a manufacturer. There is also a provision that would ban the sale of tobacco product in pharmacies. This has been adopted in Haverhill and Middleton, and possibly next year in Billerica and Newburyport.

Mr. Beauregard just wanted to suggest updating some of the regulations and he and Mr. Carbone can work together on what the Board would like to see for changes. Ms. Martin pointed out that our regulations are 18 yrs old. Mr. Carbone explained that the Andover regulations were through a town bylaw because the previous Health Director wanted the

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<sup>1</sup> The booklet has been added to the Agenda Packet.

Town residents to drive the adoption, not just the BOH. The BOH can decide if it wants to maintain the bylaw or change to regulatory control. Mr. Carbone stated that regulations by the BOH can be stricter than a bylaw, and we would have to ask to rescind the Bylaw. Mr. Beauregard stated that Andover is a pioneer in smoke free areas. Right now smoking bars are still allowed if more than half their revenue is from the sale of tobacco.

- **6:10 p.m. – Sun Son for Boston King Cafe** – Ms. Martin stated that this Hearing was continued from September. Mr. Carbone stated that the last three private inspections came in today as well as one that was done on Saturday and things were looking good. The temperatures have been good, food has been stored properly, and sanitizing buckets are in use. They have continued with keeping the restaurant clean. Ms. Martin asked Mr. Son if he sees a difference, and he replied that he sees a big difference and has been closing himself after at least two hours of cleaning. Ms. Martin felt that things were looking promising, and wants them to continue.

*Motion by Dr. Miller, seconded by Ms. Martin to require Mr. Son to continue with the private inspections every other month for six months and come back at the June Board of Health Meeting for a review. Unanimous approval.*

### **III. Discussion**

- **Susan Odle Properties** – Mr. Carbone stated that he was in touch with the Attorney General's Office and they did a site visit on Thursday afternoon. Pictures have been taken, and Mr. Carbone thinks the expectation is that the Attorney General's Office may move forward with a Receiver. The bankruptcy issue could also come into play. Mr. Carbone hopes the bank will move forward and step in without the need for a receiver.
- **Michael Way** – Mr. Carbone informed the Board that there was no update on Susan Odle's Michael Way property. Ms. Martin stated that there seemed to be no solution and that the process takes so long. The Board really tried hard to help with the Osgood Street problems, but there seemed to be no clear solution. Hopefully the inspection last Thursday is enough to get them going. Mr. Carbone will be reviewing an affidavit to be filed and hopes to have more information next month.
- **Town Meeting Articles** – Mr. Carbone stated that there was currently nothing in the Town Meeting Articles that the Health Division needed to address, but that a group from other Town Departments have been working with the Planning Division to slightly amend the Watershed Protection Overlay District and provide a better and updated map.

The other issue is fast food because almost every restaurant has to go to the ZBA to get a special permit for fast food or food-to-go. The intent was to keep traditional fast food places out of the downtown area. Mr. Carbone would like the Board to think about this and decide if it wants to get behind this issue. The Warrant Articles do not close until January, 2013, so the Board will have some time to think about what they would like to do.

- **Sign Home Health VNA Agreement** – Mr. Carbone stated that the Board of Health has signed this agreement every year and the price has not changed. This is a very good backup for the Town to have, and Mr. Carbone recommended the Board approve the agreement.

*Motion by Dr. Miller, seconded by Ms. Martin, to approve the VNA Agreement. Ms. Martin signed the Agreement. Unanimous approval.*

- **Impending Vacancy – Replacement Member** – Mr. Carbone informed the Board that there have not been any announcements in the Andover Townsman concerning the vacancy on the Board of Health. Mr. Carbone thought that he and Ms. Martin could talk to a reporter or at least do a Press Release.
- **Organics Regulations Update (Not on Agenda)** - Mr. Carbone informed the Board that he had a meeting in Boston with the policy makers and some of the Attorneys from MDEP to talk about the process. Mr. Carbone has been going through the regulations over the last couple of weeks. He was very clear with them that he was not happy with the process, and following the comment period, they were not allowed to talk to anyone about the process or release any drafts. Mr. Carbone said that they developed a document that was done in August on the response to comments, but waited until November to release this.

Site assignments for facilities like an Anaerobic Digester will no longer be a local permit, but instead will be permitted by MDEP. After the release of the draft permit, there will be a 30 day public comment period and then the town can request a public hearing on it. Mr. Carbone stated that the Town does not have the benefit of an application fee and does not have the power to hire someone to do the review, protecting the town's interest's funds. While we would expect the DEP to be the appropriate organization to review this, there is a concern that there would not be enough staff to handle this. Mr. Carbone thinks there is a need to streamline the permitting process, but that MDEP did it the wrong way. We argued that they could have at least put into the operating approvals that if they did not allow for local inspection that they could lose their permit, but the State refused to require that because the State said it could do that conditionally. There is nothing in the regulations that would preempt the towns from doing their own local regulations. Mr. Carbone will type up his notes for the BOH.

#### **IV. Old Business**

- N/A

#### **V. Definitive Subdivision Plans**

- N/A

#### **VI. Plan Review**

- **DWRP Variance/Local Upgrade Approval**
  - N/A

## **VII. Staff Reports**

### **A. Director's Reports:**

#### **A. Important Dates:**

- December 14, 2012 – ATM Articles Due to Town Manager
- January 14, 2012 at 6 p.m. – Board of Health Meeting
- January 25 & 26 – MMA Meeting, Boston
- February 11, 2012 at 6 p.m. – Board of Health Meeting

**B. Nurses' Report for November, 2012** - The Nurses' Report for November, 2012, was for informational purposes only.

**C. Inspectors' Reports for November, 2012** – The Inspectors' Reports for November, 2012.

## **VIII. Board Member Reports**

- **Work Plan for the Board of Health** – Ms. Martin suggested that the Board make a list of what goals it should set going forward. Ms. Martin felt that the Tobacco Regulations were fine, but that Animal Regulations should be addressed. Dr. Miller asked if Tobacco Regulations should be looked at now or put on the back burner to be addressed at a later date. Ms. Martin replied that is why she wanted to make a list of priorities. Mr. Carbone informed the Board that he has an active Work Plan & would show the Board what he has been setting up as priorities. Ms. Martin also mentioned that the Board had talked about setting up a Task Force to work with the Animal Regulations and would still like to do that. Mr. Carbone agreed and said that was one of the issues he wanted to address after the first of the year.

## **IX. Adjournment**

*Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 6:53 p.m. Unanimous approval.*